

APPEAL NO. 93163

Under the provisions of the Texas Workers' Compensation Act, TEX. REV. CIV. STAT. ANN., art. 8308-1.01 *et seq.* (Vernon Supp. 1993) (1989 Act), a contested case hearing was held in (city), Texas, on January 19, 1993, (hearing officer) presiding as hearing officer. He determined that the appellant (claimant) reached maximum medical improvement (MMI) on December 2, 1992, with a 6% whole body impairment rating. Claimant urges that the designated doctor's rating is inaccurate and that he should be awarded 7% impairment for disc herniation. Respondent (carrier) argues that the designated doctor's report is not overcome by the great weight of other medical evidence and asks that the decision be affirmed.

DECISION

Finding no error and that the hearing officer's decision is supported by sufficient evidence, we affirm.

The only issues in the case involved whether MMI had been reached and the correct impairment rating. The fact that the claimant sustained an on the job back injury on (date of injury) was not in issue. The claimant was examined by and treated for his back injury by several physicians and a chiropractor. On July 3, 1992, he was directed to be examined by a carrier selected doctor, (Dr. W), who subsequently rendered a Report of Medical Evaluation, Texas Workers' Compensation Commission Form 69 (TWCC-69) showing an MMI date of "8/6/92" with a 0% whole body impairment rating. Claimant and his doctor, (Dr. D) did not agree with either a finding of MMI or the impairment rating. Subsequently, the Commission selected a designated doctor, (Dr. G), an orthopedic surgeon, who rendered a TWCC-69 showing an MMI date of "12/2/92" with a 6% whole body impairment rating. Attached to the TWCC-69 was a detailed narrative report which explained his examination and resolution of a disc central herniation, a condition which was disclosed along with degeneration of several discs in an MRI reported by a Dr. P on October 22, 1992. Another report of Dr. D dated December 22, 1992, disagrees with the report rendered by Dr. G.

The claimant testified that he did not think Dr. G was a neutral doctor as he was paid for by the carrier, there were some inaccuracies in Dr. G's report concerning the pain he experienced in receiving an injection, and that Dr. G commented on irrelevant things in the history. On appeal, the main complaint concerned what he believes to be Dr. G's erroneous factoring of the impairment rating for the herniated disc. The hearing officer discussed the rating of Dr. G and determined it was in accordance with the American Medical Association Guides to the Evaluation of Permanent Impairment. He determined that the designated doctor's report was not contrary to the great weight of the other medical evidence. The evidence of record sufficiently supports this determination.

Although there was an opinion by a doctor treating the claimant that the claimant had not yet reached MMI, in addition to the designated doctor's report, there was a report from

a carrier selected doctor who found an earlier date of MMI with 0% impairment. We have held that the report of a designated doctor is accorded a unique position under the 1989 Act and that in giving such report the directed presumptive weight (Article 8308-4.25 and 4.26) involves more than a mere balancing of the medical evidence, and nothing short of the "great weight" of other medical evidence can overcome it. Texas Workers' Compensation Commission Appeal No. 92412, decided September 28, 1992. The hearing officer considered the claimant's complaints concerning the designated doctor's report and, where appropriate, satisfactorily explained or resolved them. See Texas Workers' Compensation Commission Appeal No. 93045, decided March 3, 1993. Under the circumstances, we do not find merit in claimant's position and, accordingly, affirm the decision.

Stark O. Sanders, Jr.
Chief Appeals Judge

CONCUR:

Susan M. Kelley
Appeals Judge

Lynda H. Nesenholtz
Appeals Judge